

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIDGETT L. NORRIS,

Petitioner,

Case No. 05-60126

v.

Hon. John Corbett O'Meara

SUSAN DAVIS,

Respondent.

_____ /

ORDER DENYING CERTIFICATE OF APPEALABILITY

On May 26, 2006, Petitioner filed a notice of appeal of this court's May 3, 2006 judgment and order denying her petition for writ of habeas corpus, which was filed pursuant to 28 U.S.C. § 2254. In response to Petitioner's notice of appeal, this court must determine whether to issue a certificate of appealability.

In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. 2253(c). If an applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue.

Fed. R. App. P. 22(b). The court may issue a certificate of appealability if the petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2).

[T]he petitioner need not show that he should prevail on the merits. He has already failed in that endeavor. Rather, he must demonstrate that the issues are debatable among jurists of reason; that the court could resolve the issues [in a different manner] or that the questions are "adequate to deserve encouragement to proceed further."

Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983); Hence v. Smith, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999).

The court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. The issues raised in the petition are not debatable among jurists of reason, such that they could be resolved differently, and they are not “adequate to deserve encouragement to proceed further.” Id. Accordingly, the request for a certificate of appealability is DENIED.

SO ORDERED.

s/John Corbett O’Meara
John Corbett O’Meara
United States District Judge

Dated: June 5, 2006

Copies:

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